



Appeal Decision

Site visit made on 30 September 2019

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2019

Appeal Ref: APP/J4423/W/18/3208670

**Heather Bank, Holdworth Lane, Holdworth, Sheffield, South Yorkshire
S6 6LL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Dr Anthony Moody & Professor Georgina Jones against Sheffield City Council.
 - The application Ref 18/00107/FUL, is dated 8 January 2018.
 - The development proposed is described as the "*erection of dwellinghouse to replace existing*".
 - This decision supersedes that issued on 19 December 2018. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. Revised drawings were provided by the appellants after the application was submitted, with the latest version being drawing no. 17-038-SK10 Rev D dated 5 August 2018 which is labelled as "for information only" and involves changes to a different single storey design that would materially alter the development. The revised drawings do not appear to have been subject to consultation with all potentially interested parties prior to the submission of the appeal. Taking account of the Wheatcroft Principles¹, I, therefore, conclude that the revised drawings should not be considered as part of this appeal given the possibility of prejudice to interested people. Accordingly, I determine the appeal on the basis of the plans that accompanied the application dated 8 January 2018.
3. A draft planning obligation under Section 106 of the Town and Country Planning Act 1990 has been provided as part of the appeal with the intention to remove some permitted development rights that would otherwise apply to the proposal. I deal with such matters later in my decision.
4. The revised National Planning Policy Framework (the Framework) was published on 19 February 2019. Policies within the Framework are material considerations taken into account for the purposes of decision-making from the date of its publication. The parties have had an opportunity to comment on the Framework during the appeal process and I determine the appeal accordingly.

¹ Derived from Wheatcroft (Bernard) Ltd v Secretary of State for the Environment and Harborough DC (1982) P&CR 233

5. If the application had proceeded to determination, the Council evidence indicates that planning permission would have been refused as it considers the development would constitute inappropriate development in the Green Belt with an associated impact on its openness.

Main Issues

6. In light of the above, the main issues of this appeal are:
 - Whether the proposal is inappropriate development in the Green Belt for the purposes of the development plan and the Framework, including the effect on the openness of the Green Belt and the purposes of including land within it, and;
 - If the proposal is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal is inappropriate development in the Green Belt

7. The appeal site consists of an existing parcel of land on a hillside that is enclosed by a dry stone wall to its southern and western boundaries, with supplementary hedging and trees demarcating it from the more open fields that lie closer to Holdworth Lane and separate the nearest groupings of farm buildings. Access for vehicles is via an unmade track from that road which runs across an adjoining field.
8. The site has land levels which progressively rise upward from the southern and western boundaries in broadly north and north eastern directions. However, land levels on the central parts of the site surrounding the existing dwelling are flatter with retaining walls positioned against the more upward sloping northern section. The northern boundary is currently defined by a close boarded fence with groupings of intervening trees and domestic paraphernalia present within the site and adjoining public footpaths in a wooded area immediately beyond it. The site lies in the Green Belt and is designated within an Area of High Landscape Value (AHLV) by the Sheffield Unitary Development Plan (UDP), adopted March 1998.
9. The existing single storey dwelling is in a broadly central position within the site. It has a timber clad exterior with asbestos sheeting evident internally, a corrugated sheet roof and a brick chimney. At the time of my visit, the dwelling was in disrepair with signs of structural deterioration, an eastern gable end missing and previous demolition had reduced its overall length. In addition, it was evident that outbuildings had been recently removed and replaced with a large outbuilding closer to the access that does not form part of the proposal before me.
10. The difference in the footprint of the dwelling that remains and the original building that pre-dated 1 July 1948 is indicated by plans and aerial photographs. The proposal seeks to demolish the dwelling and erect a replacement chalet bungalow, that although shorter in overall length than the original dwelling, would be of an increased depth, larger footprint and include accommodation in its roofspace.

11. With regard to the above, Policy CS 71 of the Sheffield Development Framework Core Strategy (CS), adopted March 2009, seeks to protect the Green Belt and indicates that development needs will be met principally through the re-use of land and buildings rather than through expansion of the urban areas. In that respect, Saved Policies GE1, GE3, GE4 and GE5 of the UDP relate specifically to the principle of development in the Green Belt, albeit that they significantly pre-date the publication of the Framework.
12. Saved Policy GE1 is a restrictive policy with wording similar to four of the five purposes of the Green Belt, excluding preserving the setting and special character of historic towns, listed under paragraph 134 and broadly incorporates the wording of paragraph 143 of the Framework relevant to inappropriate development in Green Belt given reference that '*development will not be permitted, except in very special circumstances*'. The interpretation of the policy in that respect is supplemented by Saved Policies GE3 and GE5 of the UDP in so far as the proposal relates to a new building consisting of housing.
13. Saved Policy GE3 of the UDP states that in the Green Belt, the construction of new buildings will not be permitted, except in very special circumstances, for purposes other than agriculture, forestry, essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses which would comply with Policy GE1. In addition, Saved Policy GE5 permits new housing in the Green Belt only where it would involve either the infilling of a single plot within the confines of an existing village, group of buildings or substantially developed road frontage, or; replacement of an existing house on the same site, providing that the house is not significantly larger than the one it replaces.
14. There are some differences between the appellants and the Council in terms of the precise measurements of what is referred to as 'the existing dwelling' rather than the current dwelling following the demolition works that have subsequently taken place. Nonetheless, even if I were to use the appellants calculations for the original building, rather than the smaller building that stood at the time of the application or the building which currently remains, it would still constitute an increase in volume from 476.3 m³ to a perceived volume above ground level of 940 m³ (1,036 m³ in total), with an increase in footprint from 165 m² to 175 m². The proposal would also consist of a significant increase in scale, bulk and massing due to a maximum height of around 6.8m if taken relative to surrounding ground levels, in comparison with an approximate ridge height of the existing dwelling of around 3.5m.
15. Having regard to the above, I find that the proposed house would be materially larger than the one it replaces. Such a view is not a matter of dispute between the parties albeit that reference in that regard is made to the Council's Supplementary Planning Guidance: Designing House Extensions that allows extensions in the Green Belt up to a third of the volume of the original house, which is related to a different policy context to that which applies to a replacement dwelling. However, in any case, the proposal would not fall within the listed exceptions within Saved Policies GE3 and GE5 of the UDP and as such, there is conflict with those policies and insofar as they relate to the interpretation of Saved Policy GE1.
16. Paragraph 213 of the Framework states that '*existing policies should not be considered out-of-date simply because they were adopted or made prior to the*

publication of the Framework'. It, therefore, guides that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The approach of paragraph 145 of the Framework and its listed exceptions are worded differently to those in Saved Policies GE3 and GE5 of the UDP and in that respect, Saved Policy GE1 is also not entirely consistent with the Framework. I, therefore, necessarily assess the proposal relative to its compliance with the Framework.

17. Paragraph 145 of the Framework asserts that construction of new buildings should be regarded as inappropriate in the Green Belt. However, this is subject to exceptions which include clause d) specific to the replacement of a building, provided that the building is in the same use and not materially larger than the one it replaces. The replacement dwelling would be materially larger and it follows that the proposal would not meet the exception at clause d) of paragraph 145.
18. Notwithstanding the above, the presence of the existing dwelling within the site would also fall within the definition of previously developed land. Consequently, clause g) of paragraph 145 is also of potential relevance insofar as its exception applies to limited infilling or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than existing development. In that respect, the siting of the dwelling would be to some extent comparable with that which previously existed within the site. However, the scale, bulk and massing of built form arising from the cumulative increase in height and depth relative to its proposed footprint would be perceptible and would have a greater impact on the openness of the Green Belt than the existing development.
19. In reaching the above view, I accept the development would be largely screened from public vantage points along Holdworth Lane with only glimpses available between existing hedges and trees against the backdrop of other trees within the site and wooded areas on elevated land levels. Furthermore, the design of the dwelling would be capable of respecting the character of properties evident in the rural area and suitable landscaping could be incorporated so as to avoid conflict with Policy GE4 and Policy GE8 of the UDP relating to Areas of High Landscape Value. However, the significant increase in height, bulk and massing of the proposal, when compared with the more modest height of the existing dwelling, would be prominent in views from elevated positions when approaching along the public footpaths running close to the northern boundary of the site.
20. Even if additional landscaping were to be provided within the site to screen those existing views into and across the site towards the surrounding landscape, openness has both a spatial and visual aspect and therefore, visual containment of a site would not of itself remove the harmful loss of openness of the Green Belt that I have identified. Consequently, the development would not satisfy the exception at point g) of paragraph 145 and based on such findings, it would harm the openness of the Green Belt.
21. Although there would be no other harm in terms of the purposes of including land within the Green Belt as listed at paragraph 134 of the Framework, the absence of concern in those respects is a neutral factor.

22. I, therefore, conclude that the proposal is inappropriate development in the Green Belt, which is harmful by definition, when having regard to the Framework and Saved Policies GE1, GE3 and GE5 of the UDP, and it would also harm the openness of the Green Belt.

Other considerations

23. The Framework advises that substantial weight should be given to any harm to the Green Belt, and that '*very special circumstances*' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
24. The appellants are clearly committed to developing the site for residential accommodation in the form of a replacement dwelling. In that respect, there would be evident benefits associated with the removal of a dwelling with asbestos concrete, some of which is currently exposed. There would also be improved energy efficiency of a new dwelling and associated improvements for the living conditions of its occupants arising from a more spacious layout. However, such benefits are not uncommon for replacement dwellings and therefore, do not of themselves reflect very special circumstances so as to justify the harm identified.
25. In reaching that view and taking into account that the Council have granted planning permission for an alternative scheme for a single storey replacement dwelling², I am not satisfied that other options have been fully exhausted so as to deliver a less harmful replacement dwelling within the site that could achieve similar benefits for the appellants with a suitable size, condition and layout for modern family living.
26. The appellants have indicated that the existing dwelling could be rebuilt in its current layout and retains permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 for extensions, with the proposal comprising 43% of the total footprint, 74% of the total volume and 84% of the total length of frontage of the identified fallback position. The appellants have also referred to the potential for other extensions and outbuildings within the curtilage. Based upon the evidence before me, the appellants have submitted a prior notification³ and lawful development certificate applications⁴ to establish the permitted development rights for the property which have yet to be determined, together with an application for a certificate of lawful development for the new outbuilding⁵ that has recently been refused. In that respect, whilst the appellants have raised concerns with respect to the Council approach when dealing with the application subject of this appeal and other applications at the appeal site, such matters do not have a material bearing on my assessment of the planning issues in this appeal.
27. In the circumstances set out above, it is not within the remit of this appeal to determine the precise permitted development rights associated with the existing building or the site. However, based upon my observations of the condition of the current building and its structural integrity, I have some

² Council Ref: 19/00771/FUL - Allowed and Planning Permission Granted - June 2019
(now subject to Council ref: 19/02406/FUL, a Section 73 application to remove condition 4 relating to permitted development rights)

³ Council Ref: 19/02299/HPN - Prior notification not required for rear extension - August 2019

⁴ Council Refs: 19/02100/LD2, 19/02101/LD2 & 19/02102/LD2

⁵ Council Ref: 18/04769/LU1 - Refused - July 2019 - Appeal Submitted by Appellants (Ref: A/J443/X/19/3234000)

reservations as to whether it could be repaired without the need for planning permission to an extent that the suggested alterations and extensions would be feasible. Nonetheless, even if the appellants' examples and figures were to be accepted and I were to consider that such a fallback position was a realistic proposition so as to be afforded significant weight, such a development would reasonably be of a more modest height than the proposal and arranged over a greater proportion of the site. To my mind, the possibility of such a development is not justification for the harmful loss of openness of the Green Belt that would arise from the overall scale, bulk and massing of the proposal, the effect of which would have a greater impact than the fallback position in the context of its surroundings.

28. It follows from the above and in the particular circumstances of this case, that I consider that the removal of permitted development rights for the proposed dwelling by way of planning obligation or condition would not justify nor overcome the harm identified so as to make the development acceptable. In any case as the draft planning obligation in that respect has not been executed, I afford little weight to it.
29. In reaching the above findings, I have taken into account that the appellants have drawn my attention to appeal decisions for replacement dwellings elsewhere in Epping Forest⁶ and the Vale of the White Horse⁷ where fallback positions afforded by permitted development rights were considered to constitute very special circumstances, despite a proposal being of an increased height. Council decisions elsewhere at New Hall Farm⁸ have also been drawn to my attention. However, it is evident that each of those decisions reflected the particular circumstances of the respective proposals, their sites and surroundings which are different from the proposal before me which I have determined on its own merits.
30. The existing access arrangements from Holdworth Lane would remain unaltered and the site is well served by off street parking provision and a turning area. In addition, the significant separation distance from the dwelling to neighbouring properties would ensure no adverse impact upon the living conditions and living environment of their respective occupiers. There would be no changes to access to the public footpaths, no alterations to the existing site boundary nor removal of any trees of amenity value within the site. Coal mining legacy can be addressed via Building Regulations and ecology matters could be resolved by condition. However, the absence of concern in those respects is a neutral factor that does not weigh in favour of the proposal.

Conclusion

31. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There would be associated harm to the openness of the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

⁶ Appeal Ref: APP/J1535/W/18/3200087 – Allowed and planning permission granted – August 2018

⁷ Appeal Ref: APP/V3120/A/12/2188869 – Allowed and planning permission granted – July 2013

⁸ Council Refs: 12/00674/FUL & 18/01394/FUL

32. Having regard to my previous reasoning, I find that the other considerations in this case, when taken together, do not clearly outweigh the substantial weight to be given to the totality of harm to the Green Belt arising from the proposed development. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal conflicts with the relevant policies of the development plan previously set out and the Framework when taken as a whole.
33. For the reasons given above, I conclude that the appeal should be dismissed and planning permission refused.

Gareth Wildgoose

INSPECTOR